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"CONGRESSIONAL MANDATES HAMSTRINGING U.S. POLICY TOWARD PAKISTAN"

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Introduction

South Asia has been on the back burner of U S foreign policy for years During most of past half century, our involvement in this region was driven primarily by our desire to conta Soviet Union Once the cold war ended, our policy shifted to relative neglect when compa other regions of the world The realities of the post-cold war environmen demand that we more attention to South Asia Why? Although the U S has no vital interests in the region have important interests that will continue to grow South Asia's major nations, India and Pakistan, are pivotal—events that take place in these countries have the potential to be internationally destabilizing Besides its sheer size and population (about one-fifth of the population), South Asia is strategically locatec This subcontinent borders the Arabian Se has ties to the volatile Middle East, it also reaches Central Asia with its resource-rich are Caspian Both India and Pakistan are enjoying moderate economic growth, anc are reple opportunities for mutually beneficial trade anc cooperation However both nations are experiencing serious internal instability caused by extremist/nationalist factions, and seri transnational issues such as poverty, illiteracy terrorism, drug trafficking, anc environm degradation The most destabilizing factor of all is that India and Pakistan are geograph contiguous, nuclear threshold states—each possesses the capability to build nuclear wea decades the number one U S interest in the region—and centerpiece of our foreign poli been nonproliferation Other interests included regional stability global economic inte cooperation on transnational issues The primary focus of U S involvement was to agg pursue India anc Pakistan to sign the regime of nuclear nonproliferation treaties/interna agreements including Comprehensive Test Ban Treaty (CTBT), Nuclear Nonprolifera (NPT), and Fissile Material Cutoff Treaty (FMCT) Pakistan agreed to sign if India w

India refused because it felt these agreements discriminated in favor of the large nuclear powers So our strategy ran into a brick wall In 1997, the Council on Foreign Relations sponsored an Independent Task Force of 28 specialists to consider a new U S policy toward India and Pakistan The report recommended that the U S "should significantly expand its bilateral economic, political, and military ties with both countries, providing a broad array of incentives for each country to help bring about restraint in the proliferation area "[1] The central premise of the report was that the U S should make South Asia a higher priority, engage both India and Pakistan more, and move away from the idea of rolling back their "de facto nuclear weapon capability "[2] The U S should use more positive measures to help reach a "stable plateau" in the nuclear competition between the two countries [3] The Clinton Administration, adopting the essence of these recommendations, has sent several high-level diplomats to South Asia within the past year—most recently the U S Ambassador to the United Nations, Bill Richardson These visits are laying the groundwork for a visit later this year by President Clinton who has clearly elevated the priority of South Asia However, despite this increased priority and engagement, U S foreign policy is being hamstrung by restrictive congressional mandates that are particularly damaging to U S relations with Pakistan [4] This paper will discuss what these nonproliferation-related legislative mandates are, why they are perpetuating an unsound policy toward Pakistan, and how we can change our strategy to achieve our national security objectives

U.S. Legislation Shaping Policy in South Asia

There are four pieces of nonproliferation and foreign assistance-related legislation shaping U S policy in the region the Glenn and Symington Amendments (recodified in the Nuclear

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[1] Richard N Haass et al, *A New U S Policy Toward India and Pakistan* (New York 1997) 26
[2] Ibid
[3] Ibid , 25
[4] Ibid

Proliferation Act of 1994), the Pressler Amendment to the International Security and Development Cooperation Act of 1985, and the Brown Amendment to the Foreign Operations Appropriations Act of 1995 All four amend the Foreign Assistance Act of 1961 The first two apply generally, while the last two focus only on Pakistan "[5]

1. Glenn Amendment: "prohibits most assistance to any country that delivers or receives nuclear reprocessing equipment and cuts off assistance to any non-nuclear state, as defined in the NPT, that tests a nuclear device Waiving the sanctions for the testing requires a joint resolution of Congress Any detonation of a nuclear explosive device by either India or Pakistan would trigger application of the Glenn Amendment sanctions, including the termination of most forms of economic assistance, defense sales and services, credit guarantees, U S Export-Import Bank support for India, and more "[6]

2. Symington Amendment: " forbids most assistance to any country that delivers or receives unsafeguarded nuclear enrichment equipment, materials, or technology The provision for waiving it was modified in 1994 and currently requires the president to certify that terminating aid would have a serious adverse effect on vital U S interests and that he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so "[7]

3. Pressler Amendment: "prohibits U S military and economic assistance to Pakistan unless the president certifies annually that Pakistan does not possess a nuclear explosive device and that the proposed assistance will significantly reduce the chance it will possess one in the future "[8]

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[5] Ibid 42
[6] Ibid
[7] Ibid 43
[8] Ibid

This amendment was passed in 1985—about the time Pakistan was playing a significant pro-Western role in the cold war President Reagan made the annual certification as the U S used Pakistan in passing arms/equipment to the majahedin combating Soviet forces in Afghanistan Leniently interpreting the certification requirement (or turning a "blind eye" toward Pakistan's growing nuclear capability), the U S pumped billions of dollars of economic and military aid into Pakistan Following the Soviet withdrawal from Afghanistan in 1989, President Bush said he could no longer certify that Pakistan did not possess a nuclear explosive device And so, in 1990, the Pressler Amendment sanctions kicked in to cut off direct economic aid and military assistance/arms sales to what was once a strong ally of the U S The resulting sanctions had adverse effects on military sales already in progress—one of the most contentious was the sale of F-16s described later in this paper

4. **Brown Amendment:** was designed to remove some of the harsher provisions of the Pressler Amendment "It removes restrictions on economic aid, military-to-military contacts training, and humanitarian and civic assistance to Pakistan It also permits the provision of assistance for anti-terrorism and anti-drug efforts, as well as for peacekeeping purposes—except for lethal equipment, which can be used for peacekeeping purposes but must be returned "[9] The Brown Amendment also freed up $368M in military equipment paid for by Pakistan but never delivered (except the F-16s) However, because of reports in 1996 that Pakistan purchased ring magnets for its nuclear program from China, and received substantial support from China for its ballistic missile program full resumption of the U S economic programs was delayed and U S inclinations to resist lifting sanctions were reinforced [10]

[9] Ibid
[10] Ibid

F-16 Sales to Pakistan

When the Pressler Amendment sanctions kicked in following President Bush's failure to certify Pakistan in 1990, it banned the U S from sending direct economic aid or military assistance to Pakistan Consequently, it blocked arms sales already in the pipeline—some $1 4B of military equipment that Pakistan had paid for Included in this was $658M for 28 contracted F-16s The planes were already built—in fact, they had the Pakistani emblems already painted on them Not only did the U S refuse to give Pakistan the aircraft, it also refused to return its money (the funds had already been paid to Lockheed Martin to build the aircraft) This caused untold hard feelings and undermined the previously strong relationship the U S had with Pakistan In fact, then Secretary of Defense Perry said that Senator Larry Pressler 'may have higher name recognition in Islamabad than he does in Sioux Falls, South Dakota (his home state)' [11] Pakistan has on several occasions demanded either the F-16s or its money back The Clinton Administration recognizing the inequity to Pakistan, has made several attempts to sell the F-16s to other countries such as Indonesia However, the efforts have proven unsuccessful The U S said it would return the money to Pakistan once it finds a buyer for the F-16s stored at Hill AFB UT Currently, Pakistan is pursuing taking the U S to court before the statute of limitations expires in early 1999 [12] Clearly, the U S policy has some serious shortcomings in its fair dealings with Pakistan

Current U S. Policy—Flawed. Counterproductive. and Inconsistent

The next portion of this paper will discuss why our current congressionally-driven policy toward Pakistan is flawed, counterproductive, and inconsistent First, our current policy has a fatal flaw in its failure to see that our number one national security interest in South Asia

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[11] Secretary of Defense William J Perry Remarks to the Foreign Policy Association *Defense Issues* Volume 10 Number 10 (New York January 31 1995) 1-6

[12] Headline 'Pakistan – U S May Resell F-16 Offer Refund' *Periscope Daily Defense News Capsules* United Communications Group (January 13 1998) 11

(nonproliferation) runs directly counter to both India's and Pakistan's primary security interest—nuclear capability The previously discussed restrictive legislation does not impact our relationship with India because its nuclear capability is indigenous It does, however, hamstring our policy toward Pakistan as we continue to punish it for pursuing what it views as necessary for its survival To more fully understand this, the congress needs to move away from its myopic lenses of nonproliferation and look at the situation in the context of the region During the past several decades, India has developed its nuclear capability in response to its perceived threat from China Just as India reacted to China's strength, Pakistan reacted to India s growing strength As proven in three wars with Pakistan since their independence in 1947, India has superior conventional capability Coupled with its nuclear capability, the only counter Pakistan has is to develop nuclear parity Because of proliferation issues, the U S cut off all economic and military aid to Pakistan since 1990 Stopping the sale of the F-16s not only punishes Pakistan for pursuing nuclear capability, it also hampers its efforts to build up a strong conventional force to counter India In short, we have put Pakistan in a double bind Second, our current policy is counterproductive to achieving U S goals of nonproliferation Pakistan will continue to import nuclear and missile technology as long as it feels threatened by India This fact was insightfully pointed out by then Secretary of Defense William J Perry following a visit to South Asia in January, 1995 Secretary Perry said 'the Pressler Amendment has not brought about the policy goals of its sponsors In fact, the weakening of Pakistan's conventional forces, which resulted from the Pressler Amendment, has led Pakistan's leaders to conclude that the nuclear capability is even more important to maintaining the security of their country "[13] Secretary Perry also noted that the Pressler Amendment was a "blunt instrument" that weakened the influence we once had in Pakistan He was not alone in this view—many members of Congress agree that the past U S

[13] Secretary of Defense William J Perry *Defense Issues* Volume 10, Number 10 (New York January 31 1995) 3

efforts have failed to stem the competition between Pakistan and India in developing nuclear capabilities [14] Despite the sanctions of the Pressler Amendment, this competition continues to this day On 6 April 1998 Pakistan "conducted a full flight test of a medium-range surface missile that could target Delhi "[15] This has for the first time given Pakistan missile parity with India—they both now have the capability to deliver nuclear weapons It is strongly suspected that Pakistan may have received assistance from North Korea in developing this missile This will no doubt increase congressional opposition to loosening sanctions, and may even call for stauncher sanctions, against Pakistan But again, look at the context India produced the Prithvi missile which could target almost all of Pakistan's major cities Once deployed, Pakistan would have only 3-minutes response time [16] This is further compounded by the recent election in India of the Bharatiya Janata Party (BJP), the nationalist Hindu party Not only is there a concern about the revival of the historic animosity between the Hindus and Muslims, the party BJP promised to "exercise the option to induct nuclear weapons "[17] Pakistan's arms race with India is no different than the U S race with the Soviet Union during the Cold War It is viewed as their national security interest and a matter of survival—any policy that continues to isolate Pakistan for pursuing its basic survival interest will be counterproductive Third our current policy is inconsistent Nonproliferation has been the main thrust of our policy toward South Asia for decades, however, the Pressler Amendment is "one-sided in that it applies pressure to Pakistan while imposing no such sanctions on India" (since India s capability is indigenous) [18] Israel is a nuclear-capable state yet nonproliferation does not dominate our policy toward that country—

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[14] Carroll J Doherty Bid to Sell Jets to Pakistan May Provoke Fight on Hill " *Congressional Quarterly Weekly Report* (April 9 1994) 851
[15] Headline Pakistani Missile Can Hit Delhi *London Times* (April 7, 1998) 1
[16] Ibid
[17] Kenneth J Cooper U S Seeks Broadened South Asia Ties " *Washington Post* (April 17 1998) A26
[18] Carroll J Doherty "Bid to Sell Jets May Provoke fight on Hill *Congressional Quarterly Weekly Report* (April 9, 1994) 851

indeed, its large constituency and powerful lobby (American Israeli Public Affairs Committee) ensure Israel continues to receive healthy doses of U S economic and military assistance Another inconsistency concerns sanctioning the source country (supplier) in proliferation issues Pakistan received short-range ballistic missiles and associated equipment from China during the early 1990s In 1991 and 1993 the U S imposed economic sanctions against both China and Pakistan for China's transfer of M-11 missile-related equipment However, in 1996 when it was reported that Pakistan purchased ring magnets for its nuclear program from China, the Symington amendment (forbidding assistance to any country that delivers or receives unsafeguarded nuclear enrichment equipment, materials, or technology) delayed full resumption of economic assistance programs to Pakistan Later in the year, additional reports of significant Chinese support for Pakistani's ballistic missile efforts further reinforced U S intimation to retain sanctions against Pakistan But what about China? The Clinton Administration was seeking to protect extensive U S business interests in China, and the Chinese Foreign Minister bluntly warned Washington that, "the imposition of unjustified sanctions would harm bilateral ties that are now showing a momentum of gradual improvement."[19] Despite the fact that U S intelligence agencies discovered that China sold the 5,000 ring magnets to Khan Research Laboratories in Pakistan, the administration declined to sanction China because "senior Beijing leaders said they knew nothing of the transfer."[20] New evidence was revealed within the last several weeks that China tried to sell nuclear equipment with weapons application to Iran and Pakistan This comes at the same time the administration has a certification pending before the Senate that China has stopped all efforts to export nuclear weapons technology Based upon China's written guarantee in October 1997 to

[19] Evan S Medeiros U S Considers sanctions on China for weapons technology transfers *Arms Control Today* (Washington, February 1996) 1

[20] Headline China – Involved in a New Nuclear Sales Effort " *Periscope Daily Defense News Capsules* United Communications Group (March 13 1998) 2-3

end such nuclear deals, the certification if approved by Congress would clear the way for U S nuclear manufacturers to sell equipment to China (estimated sales as much as $50B over 20 years)."[21] Considering that China is a potential future peer competitor, one might ask, "What's wrong with this picture?" as the U S prepares to sell its nuclear technology. None-the-less, Mr Robert Einhorn, Deputy Assistant Secretary of State for Proliferation, urged the panel during a recent hearing of the Senate Foreign Relations Committee not to block certification. He noted, "we believe, because of the incentives promised by the implementation of the nuclear certification agreement, the Chinese government conducted investigations and responded promptly to each of the inquiries."[22] And so we see the inconsistency of a supplier nation receiving incentives whereas the receiving nation (Pakistan) is sanctioned.

Changing the Strategy

The final portion of this paper will address how to change this strategy to more effectively achieve U S national security objectives. First, the U S needs a major policy shift in how it deals with South Asia. The U S has important security interests in South Asia including regional stability, preventing another Indo-Pakistani war, and nonproliferation. The U S should move away from punitive measures, particularly against Pakistan, and seek greater opportunities to use positive measures to persuade both India and Pakistan to restrain their nuclear and missile programs. As recommended by the Council on Foreign Relations Task Force, we should stop trying to roll-back both India's and Pakistan's "de facto nuclear capabilities." Instead, the U S should work with both countries to pursue more limited but potentially achievable objectives such as to discourage nuclear testing, nuclear weapons deployment, and the export of nuclear weapon or missile-related material, technology, or expertise. The U S should urge both countries to

[21] Ibid.
[22] Ibid.

refrain from missile deployments and cease unsafeguarded production of fissile material "[23] Second, President Clinton should push for changes to existing legislation, especially the Pressler Amendment. An option would be a follow-on to the Brown Amendment to provide economic and military assistance to Pakistan.[24] Pakistan has a tenuous economy, with potential to become a failed state. Providing economic assistance would help enhance humanitarian efforts and increase the likelihood of stability. There is also great mutual benefit to be gained from reinstating IMET and mil-to-mil contacts ensuring Pakistan has a professional military grounded in democratic values. Limited arms sales should also be considered—ensuring they in no way add to Pakistan's nuclear capability or upset the balance of power.[25] If Pakistan can bolster its conventional capability it may be less likely to rely solely on nuclear parity. There are also numerous economic initiatives and bilateral agreements that would be beneficial for both India and Pakistan (i.e., energy issues, infrastructure, increased foreign investment, privatization, etc.). Weaving both countries into the global economy will allow leverage by other participating countries to ensure compliance with norms, particularly in the realm of nonproliferation. As a moderate Islamic state and democracy, Pakistan can be helpful in countering the more radical Islamic regimes in the region as the U.S. works to achieve its national security objectives. This was underscored during the recent visit of U.N. Ambassador Richardson concerning a peace settlement in Afghanistan. A Foreign Ministry spokesman said getting the warring sides to agree to call a truce "has to be seen in the context of the effort and substantive spade work done by Pakistan."[26] Third, the Clinton Administration needs to devise a solid strategy for gaining congressional support for the required repeal/amendments to existing legislation. I would propose a three-prong approach. The initial

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[23] Richard N. Haass et al. *A New U.S. Policy Toward India and Pakistan* (New York, 1997), 2.
[24] Ibid., 4–5.
[25] Ibid., 36.
[26] "Pakistan Applauds U.S. on Afghanistan," *Washington Post*, April 22, 1998), A26.

prong, rally a bipartisan congressional coalition of known supporters (for example, the 55 senators who voted for the Brown Amendment) In fact, Senator Brown (R-CO) is a good starting point as he has tried on two previous occasions to offer amendments to bring some fairness to U S dealings with Pakistan The next prong, leverage the "iron triangle" of defense, industry, and congress to resume arms sales Aerospace and other industries have highly effective lobbyists that know how to work the congressional staffers and members (as well as DOD) to garner support for changing laws to further their interests Keeping in mind that "all politics are local," if there is a way to tie legislation into some additional business going into a member's district, chances are greater to get the member's support The final prong, and most important, President Clinton needs to expend significant political capital to make this happen The give and take of the bureaucratic process is alive and well on Capital Hill An example is the unfolding of events in late 1995 President Clinton wanted to send troops to Bosnia but congress kept passing numerous resolutions and introducing legislation to block this – cutting off funds At the same time, President Clinton opposed the FY1996 Appropriations Bill because of its $7B in add-ons including money for several un-requested items (B-2, transport ships and fighters) President Clinton allowed the bill to become law without his signature, and Congress gave their lukewarm support to the president sending troops to Bosnia Both got what they wanted

Conclusion

Restrictive congressional mandates have had a "strangle-hold" on U S foreign policy toward South Asia for years, particularly Pakistan It is important that congress shed its myopic lenses of nonproliferation at all cost and realize there are mutually beneficial opportunities to be leveraged to better achieve U S national objectives President Clinton should implement a robust strategy to provide the compelling case to Congress that rolling back India and Pakistan s nuclear capability

is not viable—and sanctions are exacerbating the situation Instead, the U S should strive for a more stable plateau for India's and Pakistan's nuclear situation, and use positive means to enhance economic, political, and military ties

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